

AMENDED IN ASSEMBLY JUNE 25, 2013

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE MAY 2, 2013

SENATE BILL

No. 185

Introduced by Senator Walters

February 6, 2013

An act to ~~add Sections 60063.3 and 60063.5 to~~ amend *Section 60061 of, and to add Section 60063.5 to*, the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 185, as amended, Walters. Instructional materials: digital format.

Existing law requires the State Board of Education to adopt at least 5 basic instructional materials in specified subject areas for use in kindergarten and grades 1 to 8, inclusive, for district boards, as defined. Existing law also requires the governing board of each school district maintaining one or more high schools to adopt instructional materials that meet specified criteria for use in the high schools under its control. Existing law prohibits the state board from adopting instructional materials until the 2015–16 school year.

Existing law requires a publisher or manufacturer of instructional materials to provide to the state, at no cost, computer files or other electronic versions of each state-adopted literary title and the right to transcribe, reproduce, modify, and distribute the material in braille, large print if the publisher does not offer a large print edition, recordings, American Sign Language videos for the deaf, or other specialized accessible media exclusively for use by pupils with visual or other disabilities that prevent use of standard instructional materials.

This bill would ~~authorize~~ *specify that school districts and, county offices of education, or charter schools are not restricted in their ability to negotiate the price of standards-aligned instructional materials and supplemental instructional materials in a printed or digital format if the negotiated price complies with certain requirements.* The bill would require instructional materials that are consistent with specific requirements of the Pupil Textbook and Instructional Materials Incentive Program Act to be offered by a publisher or manufacturer as unbundled elements. The bill also would authorize a school district to use instructional materials in digital format that were purchased by the school district to create a districtwide online digital database for classroom use, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 60063.3 is added to the Education Code,~~
2 ~~to read:~~
3 ~~60063.3. Notwithstanding paragraph (1) of subdivision (a) of~~
4 ~~Section 60061, school districts and county offices of education~~
5 ~~may negotiate the price of standards-aligned instructional materials~~
6 ~~and supplemental materials in either a printed or digital format.~~
7 ~~SECTION 1. Section 60061 of the Education Code is amended~~
8 ~~to read:~~
9 60061. (a) A publisher or manufacturer shall do all of the
10 following:
11 (1) Furnish the instructional materials offered by the publisher
12 at a price in this state that, including all costs of transportation to
13 that place, does not exceed the lowest price at which the publisher
14 offers those *same* instructional materials for adoption or sale to
15 any *other* state *within, or school district in territory of,* the United
16 States.
17 (2) Automatically reduce the price of those instructional
18 materials to any governing board to the extent that reductions are
19 made ~~elsewhere~~ *in another state within, or territory of,* the United
20 States.
21 (3) Provide any instructional materials free of charge in this
22 state to the same extent as that received by any state or school
23 district in the United States.

1 (4) Guarantee that all copies of any instructional materials sold
2 in this state are at least equal in quality to the copies of those
3 instructional materials that are sold elsewhere in the United States,
4 and are kept revised, free from all errors, and up to date as may
5 be required by the state board.

6 (5) Not in any way, directly or indirectly, become associated or
7 connected with any combination in restraint of trade in instructional
8 materials, or enter into any understanding, agreement, or
9 combination to control prices or restrict competition in the sale of
10 instructional materials for use in this state.

11 (6) Maintain a representative, office, or depository in the State
12 of California or arrange with an independently owned and operated
13 depository in the State of California to receive and fill orders for
14 instructional materials.

15 (7) Provide to the state, at no cost, computer files or other
16 electronic versions of each state-adopted literary title and the right
17 to transcribe, reproduce, modify, and distribute the material in
18 braille, large print if the publisher does not offer a large print
19 edition, recordings, American Sign Language videos for the deaf,
20 or other specialized accessible media exclusively for use by pupils
21 with visual disabilities or other disabilities that prevent use of
22 standard instructional materials. Computer files or other electronic
23 versions of materials adopted shall be provided within 30 days of
24 request by the state as needed for the purposes described in this
25 subdivision as follows:

26 (A) Computer files or other electronic versions of literary titles
27 shall maintain the structural integrity of the standard instructional
28 materials, be compatible with commonly used braille translation
29 and speech synthesis software, and include corrections and
30 revisions as may be necessary.

31 (B) Computer files or other electronic versions of nonliterary
32 titles, including science and mathematics, shall be provided when
33 technology is available to convert those materials to a format that
34 maintains the structural integrity of the standard instructional
35 materials and is compatible with braille translation and speech
36 synthesis software.

37 (b) Upon the willful failure of the publisher or manufacturer to
38 comply with the requirements of this section, the publisher or
39 manufacturer shall be liable to the governing board in the amount
40 of three times the total sum that the publisher or manufacturer was

1 paid in excess of the price required under paragraphs (1), (2), and
2 (5) of subdivision (a), and in the amount of three times the total
3 value of the instructional materials and services that the governing
4 board is entitled to receive free of charge under subdivision (a).

5 *(c) Nothing in this section shall be construed to restrict the*
6 *ability of a school district, county office of education, or charter*
7 *school within California to negotiate the price of standards-aligned*
8 *instructional materials and supplemental instructional materials*
9 *in either a printed or digital format if the negotiated price complies*
10 *with paragraphs (1) and (2) of subdivision (a).*

11 SEC. 2. Section 60063.5 is added to the Education Code, to
12 read:

13 60063.5. (a) Instructional materials or supplemental
14 instructional materials that are consistent with the requirements
15 of Section 60119 shall be offered by a publisher or manufacturer
16 as unbundled elements to enable digital materials or printed
17 materials to be purchased separately from other components.

18 (b) Without violating any copyright law or contract between a
19 school district and a publisher or manufacturer, a school district
20 may use instructional materials in digital format that were
21 purchased by the school district to create a districtwide online
22 digital database for classroom use consistent with an online security
23 system that is mutually agreed on by the publisher and the school
24 district.